

106TH CONGRESS
1ST SESSION

H. R. 1917

To direct the Secretary of Health and Human Services to make additional payments under the Medicare Program to certain home health agencies with high-cost patients, to provide for an interest-free grace period for the repayment of overpayments made by the Secretary to home health agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1999

Mr. MCGOVERN (for himself, Mr. COBURN, Mr. WEYGAND, Mr. BARTON of Texas, Mr. MCINTOSH, Mr. RAHALL, Mr. HILLEARY, Ms. HOOLEY of Oregon, Mr. WAMP, and Mr. ACKERMAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Health and Human Services to make additional payments under the Medicare Program to certain home health agencies with high-cost patients, to provide for an interest-free grace period for the repayment of overpayments made by the Secretary to home health agencies, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Home Health Access
3 Preservation Act of 1999".

4 SEC. 2. ADDITIONAL PAYMENTS TO AGENCIES FOR MOST
5 EXPENSIVE CASES.

6 (a) PAYMENTS FOR OUTLIERS.—

7 (1) IN GENERAL.—Subject to paragraph (2),
8 from amounts appropriated pursuant to subsection
9 (e), the Secretary of Health and Human Services
10 shall pay an additional amount to home health agen-
11 cies furnishing qualified home health services during
12 a cost reporting period beginning on or after Octo-
13 ber 1, 1997, under the medicare program (under
14 title XVIII of the Social Security Act).

15 (2) LIMITATION OF PAYMENTS.—No payment
16 shall be made under this section to a home health
17 agency that, as of the date of the enactment of this
18 Act, has ceased furnishing home health services for
19 which payment may be made under the medicare
20 program (under such title).

21 (b) DESCRIPTION OF QUALIFIED SERVICES.—For
22 purposes of additional payment amounts under this sec-
23 tion by the Secretary to home health agencies, qualified
24 home health services are home health services furnished
25 under the medicare program for the treatment of condi-
26 tions within a diagnosis described in subsection (c).

1 (c) DESCRIPTION OF DIAGNOSIS.—A diagnosis de-
 2 scribed in this subsection is one of the following diagnoses
 3 as classified in St. Anthony's ICD-9-CM Code Book for
 4 Physician Payment:

5 (1) diabetes mellitus (ICD-9-CM code 250).

6 (2) essential hypertension (ICD-9-CM code
 7 401).

8 (3) other forms of chronic ischemic heart dis-
 9 ease (ICD-9-CM code 414).

10 (4) heart failure (ICD-9-CM code 428).

11 (5) acute, but ill-defined cerebrovascular disease
 12 (ICD-9-CM code 436).

13 (6) pneumonia, organism unspecified (ICD-9-
 14 CM code 486).

15 (7) chronic airway obstruction, not elsewhere
 16 classified (ICD-9-CM code 496).

17 (8) chronic ulcer of skin (ICD-9-CM code
 18 707).

19 (9) symptoms involving urinary system (ICD-
 20 9-CM code 788).

21 (10) fracture of neck of femur (ICD-9-CM
 22 code 820).

23 (d) DETERMINATION OF AGENCY-SPECIFIC PAY-
 24 MENT AMOUNT.—

1 (1) CERTIFICATION OF QUANTITY OF QUALI-
2 FIED HOME HEALTH SERVICES FURNISHED.—

3 (A) IN GENERAL.—With respect to a fiscal
4 year, a home health agency may submit to the
5 Secretary a certification of the number of pa-
6 tients to whom the agency furnished qualified
7 home health services during the agency's cost
8 reporting period beginning in that fiscal year.

9 (B) DEADLINE FOR SUBMISSION.—

10 (i) IN GENERAL.—Such certification
11 shall be submitted to the Secretary during
12 the 30-day period beginning on the date
13 the agency submits to the Secretary a cost
14 report for the cost reporting period begin-
15 ning in such fiscal year.

16 (ii) TRANSITION RULE.—In the case
17 of an agency with a cost reporting period
18 beginning on or after October 1, 1997,
19 that ends before the date of the enactment
20 of this Act, with respect to such cost re-
21 porting period, the 30-day period under
22 clause (i) begins 60 days after the date of
23 the enactment of this Act.

24 (2) DETERMINATION OF AGGREGATE QUALI-
25 FIED HOME HEALTH SERVICES FURNISHED.—From

1 data contained in certifications submitted under
2 paragraph (1) with respect to cost reporting periods
3 beginning in fiscal years 1998, 1999, and 2000, the
4 Secretary shall determine, with respect to a fiscal
5 year, the number of patients who have received
6 qualified home health services furnished by agencies
7 submitting such certifications for that fiscal year.
8 The Secretary shall make such determination by not
9 later than 120 days after all cost reports for that
10 fiscal year have been received.

11 (3) AGENCY-SPECIFIC PERCENTAGE OF AGGRE-
12 GATE AMOUNT.—For each home health agency sub-
13 mitting a certification under paragraph (1) for a fis-
14 cal year described in paragraph (2), the Secretary
15 shall determine an agency-specific percentage by di-
16 viding the number of patients certified by the home
17 health agency for that fiscal year by the national
18 total specified in paragraph (2) for that fiscal year.

19 (4) PAYMENT AMOUNT.—The Secretary shall
20 pay for a fiscal year described in paragraph (2) to
21 a home health agency making the certification under
22 paragraph (1) an amount equal to the product of the
23 percentage determined under paragraph (3) and the
24 amount appropriated for such fiscal year under sub-
25 section (e).

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
 2 authorized to be appropriated from the Federal Hospital
 3 Insurance Trust Fund (established under section 1817 of
 4 the Social Security Act (42 U.S.C. 1395i)) for making ad-
 5 ditional payments to home health agencies under this sec-
 6 tion, \$250,000,000 in each of the fiscal years 2000
 7 through 2002.

8 (f) TERMINATION.—The Secretary shall not make ad-
 9 ditional payments under this section for cost reporting pe-
 10 riods, or portions of cost reporting periods, beginning on
 11 or after the date of the implementation of the prospective
 12 payment system for home health services under section
 13 1895 of the Social Security Act (42 U.S.C. 1395fff).

14 (g) LIMITATION ON JUDICIAL REVIEW.—There shall
 15 be no administrative or judicial review under section 1869
 16 of the Social Security Act (42 U.S.C. 1395ff), section
 17 1878 of such Act (42 U.S.C. 1395oo), or otherwise of any
 18 action of the Secretary with respect to the determination
 19 of an additional payment amount under this section.

20 SEC. 3. OVERPAYMENTS.

21 (a) 36-MONTH REPAYMENT PERIOD.—In the case of
 22 an overpayment by the Secretary of Health and Human
 23 Services to a home health agency for home health services
 24 furnished during a cost reporting period beginning on or
 25 after October 1, 1997, as a result of payment limitations

1 provided for under clause (v), (vi), or (viii) of section
2 1861(v)(1)(L) of the Social Security Act (42 U.S.C.
3 1395x(v)(1)(L)), the home health agency may elect to
4 repay the amount of such overpayment over a 36-month
5 period beginning on the date of notification of such over-
6 payment.

7 (b) INTEREST ON OVERPAYMENT AMOUNTS.—

8 (1) 36-MONTH GRACE PERIOD.—

9 (A) IN GENERAL.—In the case of an agen-
10 cy that makes an election under subsection (a),
11 no interest shall accrue on the outstanding bal-
12 ance of the amount of overpayment during such
13 36-month period.

14 (B) OVERDUE BALANCES.—In the case of
15 such an agency, interest shall accrue on any
16 outstanding balance of the amount of overpay-
17 ment after termination of such 36-month pe-
18 riod. Interest shall accrue under this subpara-
19 graph at the rate of interest charged by banks
20 for loans to their most favored commercial cus-
21 tomers, as published in the Wall Street Journal
22 on the Friday immediately following the date of
23 the enactment of this Act.

24 (2) OTHER AGENCIES.—In the case of an agen-
25 cy described in subsection (a) that does not make an

1 election under subsection (a), interest shall accrue
2 on the outstanding balance of the amount of over-
3 payment at the rate described in the second sentence
4 of paragraph (1)(B).

5 (c) TERMINATION.—No election under subsection (a)
6 may be made for cost reporting periods, or portions of cost
7 reporting periods, beginning on or after the date of the
8 implementation of the prospective payment system for
9 home health services under section 1895 of the Social Se-
10 curity Act (42 U.S.C. 1395fff).

11 (d) EFFECTIVE DATE.—The provisions of subsection
12 (a) shall take effect as if included in the enactment of the
13 Balanced Budget Act of 1997.

14 **SEC. 4. UPDATE ON IMPLEMENTATION OF PROSPECTIVE**
15 **PAYMENT SYSTEM FOR HOME HEALTH AGEN-**
16 **CIES.**

17 Not later than 90 days after the date of enactment
18 of this Act, and every 90 days thereafter until the prospec-
19 tive payment system for home health agencies (established
20 by section 1895 of the Social Security Act (42 U.S.C.
21 1395fff)) is implemented, the Secretary of Health and
22 Human Services shall meet with the staff of the appro-
23 priate committees of Congress to provide an informal up-

- 1 date regarding the progress of the Secretary in imple-
- 2 menting such payment system.

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